

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CHARLES JOSEPH FREITAG, JR., as  
ADMINISTRATOR of the ESTATE OF  
CHARLES JOSEPH FREITAG, SR.,**

**Plaintiff,**

**V.**

BUCKS COUNTY et al.

**Defendants.**

[illegible]

**No. 2:19-cv-05750-JMG**

**Plaintiff's Response to PrimeCare Defendants' Statement  
of Material Undisputed Facts in Support of Summary Judgment**

Plaintiff Charles Joseph Freitag Jr., through counsel, hereby responds to the statement of facts proffered by defendants PrimeCare, Jessica Mahoney, and Christina Penge (ECF 78).

Unless otherwise specified, all citations below are to Plaintiff’s Statement of Facts in Support of Consolidated Opposition to Defendants’ Motions for Summary Judgment, abbreviated as “PS” and followed by the relevant paragraph number.

1. This matter arises from the suicide death of Charles Freitag, Sr. at the Bucks County Correctional Facility. *See* Am. Complaint, Exhibit 1 (JA00000001).

**Response:** Admitted.

2. PrimeCare has a contract to provide mental health services at the Bucks County Correctional Facility. Weber Depo., Exhibit 59, p. 33:9-12 (JA0000767).

**Response:** Admitted.

3. In August of 2018, mental health staff was in the Bucks County Correctional Facility Monday through Friday from 6:00 a.m. to 4:00 p.m. Weber Depo., Exhibit 59, p. 29:15-23 (JA0000766).

**Response:** Admitted.

4. Christina Penge is a licensed professional counselor. Penge Resume, Exhibit 39 (JA0000369).

**Response:** Admitted.

5. Ms. Penge was employed by PrimeCare to work as a mental health counselor from April of 2018 through March of 2019 at the Bucks County Correctional Facility. Penge Resume, Exhibit 39 (JA0000368).

**Response:** Admitted.

6. Ms. Penge's general duties included being responsible for coordinating and implementing the mental health program at Bucks County Correctional Facility. Job Descriptions, Exhibit 42 (JA0000381).

**Response:** Admitted.

7. Jessica Mahoney is employed by PrimeCare as a psychologist in training at the Bucks County Correctional Facility. Mahoney Resume, Exhibit 40 (JA0000371).

**Response:** Admitted.

8. Dr. Mahoney's responsibilities included completing rounds on a daily basis of the at-risk mental health population, completing intakes, triage for psychiatry, and consult with the medical team. Mahoney Resume, Exhibit 40 (JA0000371).

**Response:** Admitted.

9. Additionally, Dr. Mahoney provides assistance in running the mental health department ensuring that patients are seen in a timely manner and creating a schedule of patients from day to day. Mahoney Resume, Exhibit 40 (JA0000371).

**Response:** Admitted.

10. Dr. Mahoney also works with the facility staff to implement mental health treatment plans. Mahoney Resume, Exhibit 40 (JA0000371).

**Response:** Admitted in part. Denied to the extent the assertion suggests that PrimeCare implements treatment plans in all cases.

11. Charles Freitag, Sr. entered the Bucks County Correctional Facility as an inmate on June 4, 2018, after being convicted of aggravated assault. Weber Depo., Exhibit 59, pp. 26:18 - 27:1 (JA0000763-764).

**Response:** Admitted.

12. Mr. Freitag's sentencing for the aggravated assault conviction was scheduled to occur on August 24, 2018. Weber Depo., Exhibit 59, pp. 26:18 – 27:1 (JA0000763-764).

**Response:** Admitted.

13. Mental health providers are available and on call 24 hours a day, 7 days per week. Weber Depo., Exhibit 59, p. 54:4-11 (JA0000780).

**Response:** Denied. Bucks County's Deputy Warden Clifton Mitchell testified that correctional staff were responsible for making mental health decisions for persons returning from court and that, as a correctional official without mental health training, he was "handcuffed" when making such decisions. PS 70-73, 77.

14. Medical or correctional staff can refer potentially suicidal patients for a suicide watch. Suicide Prevention Policy, Exhibit 44 (JA0000394).

**Response:** Admitted only to the extent the assertion concerns time periods when PrimeCare mental health staff were in the building. Denied to the extent the assertion addresses other time periods. PS 70-73.

15. Security staff can contact the medical department or the mental health supervisor during hours when mental health staff is not physically in the building. Mahoney Depo., Exhibit 60, pp. 24:22 – 25:6 (JA0000783-784).

**Response:** Denied. Bucks County's Deputy Warden Clifton Mitchell testified that correctional staff were responsible for making mental health decisions for persons returning from court and that, as a correctional official without mental health training, he was "handcuffed" when making such decisions. PS 70-73, 77.

16. When an inmate comes back from sentencing, the reception officer at the prison can contact his supervisor about mental health concerns for an inmate. Mahoney Depo., Exhibit 60, pp. 25:18 – 26:13 (JA0000784-785).

**Response:** Admitted.

17. The security supervisor can contact the mental health supervisor with any concerns about an inmate who is returning to the facility after sentencing. Mahoney Depo., Exhibit 60, pp. 25:18 – 26:13 (JA0000784-785).

**Response:** Denied. Bucks County's Deputy Warden Clifton Mitchell testified that correctional staff were responsible for making mental health decisions for persons returning from court and that, as a correctional official without mental health training, he was "handcuffed" when making such decisions. PS 70-73, 77.

18. Thus, in August of 2018, mental health staff was available either in person or via telephone for any mental health concerns about a particular inmate 24 hours per day, 7 days per week. Weber Depo., Exhibit 59, p. 54:4-11 (JA0000780); Mahoney Depo., Exhibit 60, pp. 24:22 – 25:6 (JA0000783-784).

**Response:** Denied. Bucks County's Deputy Warden Clifton Mitchell testified that correctional staff were responsible for making mental health decisions for persons returning from court and that, as a correctional official without mental health training, he was "handcuffed" when making such decisions. PS 70-73, 77.

19. Mr. Freitag entered the Bucks County Correctional Facility on June 4, 2018, at approximately 15:18. PrimeCare Records, Exhibit 45 (JA0000423).

**Response:** Admitted.

20. As part of his entry into the Correctional Facility, Mr. Freitag underwent a suicide screening which was performed Jennifer Sariego, RN. PrimeCare Records, Exhibit 45 (JA0000423).

**Response:** Admitted.

21. As a result of this initial suicide screening, Mr. Freitag was placed on suicide precautions. PrimeCare Records, Exhibit 45 (JA0000423-424; JA0000434).

**Response:** Admitted.

22. Mr. Freitag was on Level II suicide precautions from June 4, 2018 through June 6, 2018. PrimeCare Records, Exhibit 45 (JA0000444).

**Response:** Admitted.

23. Mr. Freitag was on psychiatric observation from June 6, 2018 through June 8, 2018. PrimeCare Records, Exhibit 45 (JA0000444).

**Response:** Admitted. By way of further response, “psychiatric observations” are a watch described in Bucks County’s “Suicide Prevention Program.” SOP B-3.23, Ex. 2, JA 24-25.

24. Mr. Freitag was on psychiatric observation from July 31, 2018 through August 17, 2018. PrimeCare Records, Exhibit 45 (JA0000444).

**Response:** Admitted. By way of further response, “psychiatric observations” are a watch described in Bucks County’s “Suicide Prevention Program.” SOP B-3.23, Ex. 2, JA 24-25.

25. At the time of his intake, Mr. Freitag scored a 12 on his Suicide Screening. PrimeCare Records, Exhibit 45 (JA0000450).

**Response:** Admitted.

26. An individual who scores about an 8 on the Suicide Screening is required to be placed on suicide precautions. PrimeCare Records, Exhibit 45 (JA0000424-425).

**Response:** Admitted.

27. At the time that Mr. Freitag entered the Bucks County Correctional Facility on June 4, 2018, he denied any current active suicidal thoughts but kept indicating that he was sorry for what he had done. PrimeCare Records, Exhibit 45 (JA0000450).

**Response:** Admitted that the cited records include the cited assertions. Denied to the extent the assertion indicates that this was the entirety of Mr. Freitag’s self-report.

28. Mr. Freitag was provided a full explanation as to the medical services that were available at the facility. PrimeCare Records, Exhibit 45 (JA0000433).

**Response:** Admitted only that the cited records state as such.

29. At the time that Mr. Freitag entered the facility, he identified that he was taking Lexapro, which was verified. PrimeCare Records, Exhibit 45 (JA0000440).

**Response:** Admitted.

30. Mr. Freitag was prescribed the Lexapro and provided with Lexapro throughout his entire incarceration. PrimeCare Records, Exhibit 45 (JA0000478-479).

**Response:** Admitted.

31. Beginning on June 14, 2018, Mr. Freitag was also prescribed and received Buspirone (an anti-anxiety medication) which he continued to receive throughout the remainder of his incarceration. PrimeCare Records, Exhibit 45 (JA0000478-479).

**Response:** Admitted.

32. Mr. Freitag was seen a total of 19 different times by mental health professionals during his incarceration at the Bucks County Correctional Facility. PrimeCare Records, Exhibit 45 (JA0000515-526).

**Response:** Admitted.

33. On June 15, 2018, Mr. Freitag was evaluated by Jessica Mahoney, Psy.D. PrimeCare Records, Exhibit 45 (JA0000515-516).

**Response:** Admitted.

34. During the June 15, 2018 evaluation, Mr. Freitag stated that he wished to have a follow-up appointment with mental health after he is sentenced in August. PrimeCare Records, Exhibit 45 (JA0000515-516).

**Response:** Admitted.

35. Dr. Mahoney scheduled a task for August 27, 2018, for a follow-up appointment following his sentencing. PrimeCare Records, Exhibit 45 (JA0000515).

**Response:** Admitted.

36. Mr. Freitag was scheduled for sentencing on August 24, 2018, which was a Friday. Thus, the next available business day was Monday, August 27, 2018. Weber Depo., Exhibit 59, pp. 28:19 – 29:2 (JA0000765-766).

**Response:** Admitted only that the “next available business day” was determined by PrimeCare’s own established policies and practices regarding the availability of mental health staff.

37. Mr. Freitag was scheduled for a follow-up appointment after his sentencing more than two months in advance. PrimeCare Records, Exhibit 45 (JA0000515).

**Response:** Admitted.

38. Mr. Freitag was evaluated by Avia James, LPC on June 6, 2018. PrimeCare Records, Exhibit 45 (JA0000518-519).

**Response:** Admitted.

39. The purpose of the evaluation was because Mr. Freitag was still on Level II suicide precautions. PrimeCare Records, Exhibit 45 (JA0000518).

**Response:** Admitted.

40. During the evaluation, Mr. Freitag reported that he had been feeling “relatively good” since he had been taking the Lexapro. PrimeCare Records, Exhibit 45 (JA0000518).

**Response:** Admitted only that Mr. Freitag stated as such on this occasion. Denied to the extent the assertion indicates that Mr. Freitag maintained that presentation consistently.

41. Mr. Freitag described the details of a prior suicide attempt and the progress that he had made since that time. PrimeCare Records, Exhibit 45 (JA0000518-519).

**Response:** Admitted only that Mr. Freitag stated as such on this occasion. Denied to the extent the assertion indicates that Mr. Freitag maintained that presentation consistently.



42. Mr. Freitag specifically denied having any suicidal thoughts, intentions, and/or plans. PrimeCare Records, Exhibit 45 (JA0000519).

**Response:** Admitted only that Mr. Freitag stated as such on this occasion. Denied to the extent the assertion indicates that Mr. Freitag maintained that presentation consistently.

43. After her evaluation of June 6, 2018, Ms. James removed Mr. Freitag from suicide precautions and placed him on psychiatric observation status. PrimeCare Records, Exhibit 45 (JA0000519).

**Response:** Admitted.

44. Ms. James was voluntarily dismissed from this case by Order of Court dated July 23, 2021. (*See* Doc. 66).

**Response:** Admitted.

45. Patients who are on Level III psychiatric observation are evaluated by mental health staff every other day Monday through Friday. Suicide Prevention Policy, Exhibit 44 (JA0000401).

**Response:** Admitted that the cited document so states.

46. Mr. Freitag was removed from psychiatric observation on June 8, 2018. PrimeCare Records, Exhibit 45 (JA0000444).

**Response:** Admitted.

47. Thereafter, Mr. Freitag was seen five (5) additional times during the month of June 2018 as part of routine follow-up care. PrimeCare Summary of Medical Contacts, Exhibit 58 (JA0000760).

**Response:** Admitted.

48. Mr. Freitag was evaluated by Avia James, LPC on June 28, 2018. PrimeCare Records, Exhibit 45 (JA0000515).

**Response:** Admitted.

49. Ms. James assessed him as not being an immediate risk of harm to himself or others and his mental health symptoms appeared to be well managed with medications and self-employed coping skills. PrimeCare Records, Exhibit 45 (JA0000515).

**Response:** Admitted only that James stated as such on this occasion. Denied to the extent the assertion indicates that Mr. Freitag maintained that presentation consistently.

50. This was the last scheduled follow-up appointment as a result of Mr. Freitag being previously placed on psychiatric observation status.

**Response:** Admitted.

51. On July 31, 2018, Ms. James evaluated Mr. Freitag at the request of Deputy Warden Mitchell. PrimeCare Records, Exhibit 45 (JA0000514).

**Response:** Admitted. By way of further response, Dr. Abbey Cassidy communicated Deputy Warden Mitchell's request to James. PS 30-31.

52. The reason for the request was that Mr. Freitag's family had contacted the prison about concerns for Mr. Freitag's well-being. PrimeCare Records, Exhibit 45 (JA0000514).

**Response:** Denied as stated. Mr. Freitag's attorney contacted the prison. PS 28-29.

53. Ms. James performed a mental status evaluation and determined that Mr. Freitag was a low risk of harm to himself and others. PrimeCare Records, Exhibit 45 (JA0000514).

**Response:** Admitted.

54. Ms. James placed him on psychiatric observation after the evaluation. PrimeCare Records, Exhibit 45 (JA0000514).

**Response:** Admitted. By way of further response, "psychiatric observations" are a watch described in Bucks County's "Suicide Prevention Program." SOP B-3.23, Ex. 2, JA 24-25.

55. Mr. Freitag remained on psychiatric observation status until August 17, 2018. PrimeCare Summary of Medical Contacts, Exhibit 58 (JA0000760).

**Response:** Admitted.

56. Prior to being removed from psychiatric observation, Mr. Freitag was evaluated by mental health staff on August 1, 2018; August 3, 2018; August 6, 2018; August 10, 2018; August 14, 2018; and August 15, 2018. PrimeCare Summary of Medical Contacts, Exhibit 58 (JA0000760).

**Response:** Admitted.

57. One of the August 15, 2018 evaluations was by Stephen Brautigam, PMHNP. PrimeCare Records, Exhibit 45 (JA0000522).

**Response:** Admitted.

58. During that evaluation, it was noted that Mr. Freitag's sleep had improved and his appetite was good. PrimeCare Records, Exhibit 45 (JA0000522).

**Response:** Admitted only that Mr. Freitag stated as such on this occasion. Denied to the extent the assertion indicates that Mr. Freitag maintained that presentation consistently.

59. Mr. Freitag was alert, oriented, pleasant, and cooperative. PrimeCare Records, Exhibit 45 (JA0000522).

**Response:** Admitted only that Brautigam stated as such on this occasion. Denied to the extent the assertion indicates that Mr. Freitag maintained that presentation consistently.

60. Mr. Freitag's mood was good although his affect was anxious. PrimeCare Records, Exhibit 45 (JA0000522).

**Response:** Admitted only that Brautigam stated as such on this occasion. Denied to the extent the assertion indicates that Mr. Freitag maintained that presentation consistently.

61. Mr. Freitag's thought process was coherent, and he was future oriented. PrimeCare Records, Exhibit 45 (JA0000522).

**Response:** Admitted only that Brautigam stated as such on this occasion. Denied to the extent the assertion indicates that Mr. Freitag maintained that presentation consistently.

62. Mr. Freitag denied any homicidal or suicidal ideation. PrimeCare Records, Exhibit 45 (JA0000522).

**Response:** Admitted only that Mr. Freitag stated as such on this occasion. Denied to the extent the assertion indicates that Mr. Freitag maintained that presentation consistently.

63. Mr. Brautigam was voluntarily dismissed by Order of Court dated July 23, 2021. (See Doc. 66).

**Response:** Admitted.

64. As a result of being on psychiatric observation, Mr. Freitag was evaluated by Christina Penge, LPC on August 17, 2018. PrimeCare Records, Exhibit 45 (JA0000521-522).

**Response:** Admitted.

65. Mr. Freitag stated that he was anxious awaiting his sentencing, and he discussed his goals for the future. PrimeCare Records, Exhibit 45 (JA0000521).

**Response:** Admitted that the cited records state as such.

66. Mr. Freitag denied having any immediate mental health concerns. PrimeCare Records, Exhibit 45 (JA0000521).

**Response:** Admitted that the cited records state as such.

67. Mr. Freitag was cooperative, pleasant, engaged, and calm. PrimeCare Records, Exhibit 45 (JA0000521).

**Response:** Admitted that the cited records state as such.

68. Mr. Freitag was appropriately dressed, made good eye contact, and his speech was normal in rate and tone. PrimeCare Records, Exhibit 45 (JA0000521).

**Response:** Admitted that the cited records state as such.

69. Mr. Freitag did have limited insight and judgment. PrimeCare Records, Exhibit 45 (JA0000521).

**Response:** Admitted. By way of further response, Penge made similar findings on multiple occasions. PS 43.

70. Mr. Freitag reported that he had a good appetite and was sleeping well. PrimeCare Records, Exhibit 45 (JA0000521).

**Response:** Admitted that the cited records state as such.

71. Mr. Freitag specifically denied having any suicidal or homicidal ideations. PrimeCare Records, Exhibit 45 (JA0000522).

**Response:** Admitted that the cited records state as such.

72. Based upon this evaluation, in using her professional judgment, Ms. Penge removed Mr. Freitag from psychiatric observation. PrimeCare Records, Exhibit 45 (JA0000522).

**Response:** Admitted that Penge removed Mr. Freitag from Level 3 watch. Denied that this was an exercise of professional judgment as Penge's decision violated the guidance and expectations of her direct supervisor, Dr. Abbey Cassidy. PS 52-53.

73. However, as part of the protocol for psychiatric observation, two follow-up appointments were automatically scheduled. PrimeCare Records, Exhibit 45 (JA0000521).

**Response:** Admitted.

74. The first of the two scheduled follow-up visits occurred on August 22, 2018, when Mr. Freitag was evaluated by Jessica Mahoney, Psy.D. PrimeCare Records, Exhibit 45 (JA0000521).

**Response:** Admitted.

75. Dr. Mahoney assessed Mr. Freitag as being a low risk for self-harm, and he denied any mental health concerns. PrimeCare Records, Exhibit 45 (JA0000521).

**Response:** Admitted that the cited records state as such.

76. Mr. Freitag was evaluated the next day, August 23, 2018, by Christina Penge, LPC. PrimeCare Records, Exhibit 45 (JA0000520).

**Response:** Admitted.

77. This evaluation was the day before his scheduled sentencing. PrimeCare Records, Exhibit 45 (JA0000520).

**Response:** Admitted.

78. Mr. Freitag reported being nervous about his sentencing, but he denied any immediate mental health concerns. PrimeCare Records, Exhibit 45 (JA0000520).

**Response:** Admitted that the cited records state as such.

79. Mr. Freitag specifically denied any suicidal or homicidal ideation. PrimeCare Records, Exhibit 45 (JA0000520).

**Response:** Admitted that the cited records state as such.

80. Ms. Penge assessed Mr. Freitag as being a low risk of self-harm. PrimeCare Records, Exhibit 45 (JA0000520).

**Response:** Admitted that the cited records state as such. Denied to the extent the assertion suggests that Mr. Freitag was and would remain a low risk of self-harm and that Mr. Freitag did not require a post-sentencing mental health evaluation. PS 60.

81. Mr. Freitag was evaluated the two days leading up to his sentencing, and he was deemed to be a low risk of suicide. PrimeCare Records, Exhibit 45 (JA0000520-521).

**Response:** Admitted that the cited records state as such. Denied to the extent the assertion suggests that Mr. Freitag was and would remain a low risk of self-harm and that Mr. Freitag did not require a post-sentencing mental health evaluation. PS 60.

82. Mr. Freitag was scheduled to be seen on August 27, 2018, for an evaluation after his sentencing. Weber Depo., Exhibit 59, p. 27:2-17 (JA0000764).

**Response:** Admitted.

83. After his sentencing, Mr. Freitag returned to the Bucks County Correctional Facility at approximately 4:11 p.m. Scordelis Depo., Exhibit 61, p. 55:9-17 (JA0000789).

**Response:** Admitted.

84. Mr. Freitag was sentenced from 6 to 12 years in a state correctional facility. Scordelis Depo., Exhibit 61, p. 55:9-17 (JA0000789).

**Response:** Admitted.

85. Based upon this sentence, Deputy Warden Clifton Mitchell placed Mr. Freitag on psychiatric observation. Scordelis Depo., Exhibit 61, p. 55:1-22 (JA0000789).

**Response:** Admitted.

86. Per policy, Deputy Warden Mitchell was authorized to make this decision based upon his judgment.

**Response:** Denied as stated. Deputy Warden Mitchell was required to be the decisionmaker regarding protective measures for Mr. Freitag due to PrimeCare's staffing policies. PS 70-72

87. As stated above, mental health staff would have been on call with any questions or concerns that any security officer could have had on August 24, 2018, or over the weekend.

**Response:** Denied. PrimeCare and Bucks County expected correctional staff to make decisions regarding watches at the time when Mr. Freitag returned from court. PS 71-72.

88. Mr. Freitag called his brother, Robert Freitag, from the prison after his sentencing. R. Freitag Depo., Exhibit 62, p. 45:15-21 (JA0000792).

**Response:** Admitted.

89. Mr. Freitag stated to his brother, Robert Freitag, that he would be on Social Security when he got out of prison. R. Freitag Depo., Exhibit 62, p. 46:7-12 (JA0000793).

**Response:** Admitted.

90. Robert Freitag perceived Mr. Freitag as being relieved that he was done with court proceedings. R. Freitag Depo., Exhibit 62, p. 46:10-12 (JA0000793).

**Response:** Admitted.

91. Mr. Freitag indicated that he could move forward and put the criminal events past him. R. Freitag Depo., Exhibit 62, p. 46:15-19 (JA0000793).

**Response:** Admitted.

92. There was nothing about this conversation that was concerning that Mr. Freitag could harm himself. R. Freitag Depo., Exhibit 62, p. 47:11-16 (JA0000794).



**Response:** Admitted that the cited testimony states as such. By way of further response, notwithstanding the telephone conversation, Robert Freitag remained concerned about his brother harming himself. PS 75.

93. Robert Freitag's perception was that Mr. Freitag was looking ahead. R. Freitag Depo., Exhibit 62, p. 47:14-16 (JA0000794).

**Response:** Admitted that the cited testimony states as such. By way of further response, notwithstanding the telephone conversation, Robert Freitag remained concerned about his brother harming himself. PS 75.

94. Additionally, Mr. Freitag's tone was better than Robert Freitag had expected. R. Freitag Depo., Exhibit 62, p. 48:1-6 (JA0000795).

**Response:** Admitted that the cited testimony states as such. By way of further response, notwithstanding the telephone conversation, Robert Freitag remained concerned about his brother harming himself. PS 75.

95. Mr. Freitag was given written notice of how he could obtain medical services including sick call and medical emergencies. PrimeCare Records, Exhibit 45 (JA0000488).

**Response:** Admitted that the cited records state as such.

96. At no point prior to his suicide did Mr. Freitag seek mental health treatment after his sentencing.

**Response:** Denied as stated. There is no record evidence that Mr. Freitag was given the opportunity to seek out medical or mental health services.

97. Unfortunately, Mr. Freitag chose to commit suicide on August 25, 2018. PrimeCare Records, Exhibit 45 (JA0000450).

**Response:** Admitted only that Mr. Freitag committed suicide. Denied to the extent the reference to “choice” suggests that Mr. Freitag’s death could not have been prevented.

Respectfully submitted,

/s/ Jonathan H. Feinberg  
Jonathan H. Feinberg

/s/ Grace Harris  
Grace Harris

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